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FAIR CAMPAIGN PRACTICES COMMISSION

CAMPAIGN FILING MANUAL

Revised April, 1986

FAIR CAMPAIGN PRACTICES
COMMISSION
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\$5.00



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TABLE OF CONTENTS

CHAPTER	TITLE	PAGE
I.	<u>Introduction</u>	1
II.	<u>Getting the Proper Forms</u>	3
III.	<u>Who Must File?</u>	4
IV.	<u>When Must Campaign Statements Be Filed?</u>	7
V.	<u>Reporting and Record-Keeping Requirements: Contributions</u>	12
VI.	<u>Reporting and Record-Keeping Requirements: Expenditures</u>	16
VII.	<u>Limitations and Prohibitions on Campaign Contributions</u>	19
VIII.	<u>Filling Out The Forms</u>	22
IX.	<u>Common Questions</u>	28
X.	<u>Special Problems</u>	31
XI.	<u>Essential Checklist for Compliance With BERA</u>	33
Appendix A	<u>Differences Between Berkeley and State Campaign Disclosure Laws</u>	37
Appendix B	<u>Resource Directory</u>	40
Index		41

FAIR CAMPAIGN PRACTICES COMMISSION

CAMPAIGN FILING MANUAL

I.

INTRODUCTION

The History and Purpose of Campaign Finance Laws in Berkeley

Campaign finance laws were enacted and are enforced in Berkeley for the sole purpose of making sure that voters have access to information about the money involved in City elections to help assure that no one interest gains an unfair advantage over others in the electoral process through the use of campaign monies.

Accordingly, Berkeley election laws stress campaign finance disclosure, so that the public knows where a candidate's financial support is coming from, and places certain limits on contributions (most notably, the requirement that no corporations, whether business, non-profits, or labor unions, can contribute to local candidates and that no one can give more than \$250 on behalf of a candidate in a two-year election cycle). Though the applicable laws and regulations contain many detailed requirements with which a campaign treasurer must become familiar, financial disclosure and compliance with contribution limits are the crux of Berkeley's campaign finance laws.

The laws which affect this process come largely from the California Political Reform Act of 1974, the Berkeley Election Reform Act of 1974 (BERA), and the Regulations of the Fair Campaign Practices Commission (FCPC Regulations).

The Fair Campaign Practices Commission - Enforcement of BERA

The BERA is enforced by the nine-member Fair Campaign Practices Commission. Each Commissioner is appointed by a City Council member to serve a four-year term (without monetary compensation). The Commission meets on the third Thursday of each month at 7:30 p.m. in the employees' lunchroom in the basement of the Civic Center Building at 2180 Milvia Street.

The Commission employs full-time staff in the City Attorney's office. If you need help, call the Commission staff at 644-6380. They are there to help you with any questions or problems you may have which are related to meeting your filing obligations.

Using the Campaign Filing Manual

The purpose of this Manual is to guide you through the process of disclosing your campaign finances in order to comply with the law.

PLEASE READ THIS ENTIRE MANUAL, AS IT MUST BE UNDERSTOOD AS AN INTEGRATED DOCUMENT. NO ONE SECTION WILL GIVE YOU ENOUGH INFORMATION TO COMPLY WITH BERKELEY'S CAMPAIGN DISCLOSURE LAWS, AND NEITHER WILL ONLY ONE READING SUFFICE. AN EARLY READING WILL HELP YOU AVOID PROBLEMS OF NON-COMPLIANCE BEFORE THEY ARISE. FREQUENT LATER READINGS WILL HELP YOU TO DISCLOSE YOUR CAMPAIGN-RELATED ACTIVITIES PROPERLY.

Also, please be aware that this Manual does not substitute for the Berkeley Election Reform Act and FCPC Regulations. Rather, it is intended to assist you to comply with these. The FCPC recommends that you obtain a copy of the BERA and the FCPC Regulations from the City Clerk and read them as well as this Manual.

You must also acquaint yourself with the State Filing Manual as all filers have obligations under State law as well (Cal. Govt. Code §81000 et seq.) The State may require separate and additional information. The City Clerk will provide you with the State Filing Manual. For further assistance, consult the Resource Directory (Appendix B).

II.

GETTING THE PROPER FORMS

The City Clerk is Berkeley's filing officer (under both City and State law). The City Clerk will supply you with the proper forms and completed forms are returned to her office for filing.

The office of the City Clerk is located at the first floor window of the Civic Center Building at 2180 Milvia Street.

Berkeley uses largely State forms but annotates them to conform to Berkeley law. For this reason, it is important that you use only the forms provided by the City Clerk.

The City Clerk can also supply you with copies of the Berkeley Election Reform Act (BERA) and the FCPC Regulations as well as the State Filing Manual.

Chapter VIII of this Manual deals in detail with selection of appropriate forms and instructions for completing forms. You may also refer to Appendix A of the Manual which deals with the substantive differences between Berkeley's campaign disclosure laws and the State's. FCPC staff is available to resolve any confusion which may arise over which forms must be used and to clarify any reporting requirements the forms demand.

THE HISTORY OF THE

The first part of the history is a description of the country and the people. The second part is a description of the government and the laws. The third part is a description of the religion and the customs. The fourth part is a description of the commerce and the industry. The fifth part is a description of the science and the arts. The sixth part is a description of the literature and the history. The seventh part is a description of the military and the naval power. The eighth part is a description of the foreign relations and the diplomacy. The ninth part is a description of the internal politics and the social conditions. The tenth part is a description of the future prospects and the challenges.

The history of the country is a story of the people and the land. It is a story of the struggles and the triumphs. It is a story of the hopes and the dreams. It is a story of the love and the hate. It is a story of the life and the death. It is a story of the beginning and the end. It is a story of the past, the present, and the future.

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III.

WHO MUST FILE?

EACH OF THE FOLLOWING HAVE CAMPAIGN DISCLOSURE OBLIGATIONS PURSUANT TO BERKELEY LAW. YOU NEED TO FILE ONLY IF YOU FIT INTO ONE OF THE FOLLOWING CATEGORIES.

CHECK ANY CATEGORIES THAT APPLY TO YOUR SITUATION. THEN, USE THIS INFORMATION TO DETERMINE WHEN YOU MUST FILE.

☐ A. ELECTED BERKELEY OFFICEHOLDERS

☐ B. CANDIDATES FOR BERKELEY MUNICIPAL OFFICE

A candidate is an individual who:

☐ 1. is listed on the ballot, or

☐ 2. is qualified to have write-in votes counted on his/her behalf, or

☐ 3. raises or spends money with the intention of seeking elective office, or

☐ 4. allows money to be raised or spent on behalf of his/her campaign for elective office, or

☐ 5. is an elected officeholder subject to a recall election.

☐ C. COMMITTEES

A committee is any person or combination of persons, including ongoing membership organizations, which receives contributions or makes expenditures of \$250 or more in a calendar year for the purpose of influencing voters in support of or in opposition to any ballot measure or candidate for Berkeley municipal office, or in support of or opposition to the qualification of any measure for the ballot. (BERA §2.12.095)

[COMMITTEES -cont.]

A "Statement of Organization" must be filed by a committee within 10 days after it is formed. (BERA §2.12.25) See Chapter VIII.

The State's definition of "committee" differs from Berkeley's and the State has a more elaborate system of categorizing different types of committees. Please consult the State Filing Manual if you have questions concerning State definitions and requirements.

- ☐ 1. A RECIPEINT COMMITTEE receives \$250 or more in contributions during a calendar year. (This differs from the State's \$500 threshold.) Most committees fall into this category.

The committees listed below are all examples of recipient committees:

- ☐ a) A controlled single-candidate committee is organized and controlled by an individual and is formed primarily to support her/his own candidacy for Berkeley municipal office.
A candidate controls a committee if she/he, her or his agent, or any other committee she/he controls has a significant influence on the actions or decitions of that committee. A controlled committee must have its state-ments signed and verified by the candidate who controls it. A controlled committee can file jointly with the controlling candidate(s) (thereby saving the filers considerable time).
- ☐ b) A slate committee supports several candidates for Berkeley municipal office. Usually, a slate committee is formed primarily for this purpose and is controlled by the candidates it supports. (See above.) Slate committees must allocate contributions received equally among the candidates the slate supports (unless the donor specifies otherwise in writing). (FCPC Regulation 81-5)
- ☐ c) A ballot measure committee is organized primarily to support or oppose any ballot measure in Berkeley, including the qualification of measures and recall measures for the ballot.
Special filing provisions apply to committees formed to support or oppose the qualification of a ballot measure. (See Chapter IV.)
A ballot measure committee formed to support or oppose the recall of an officeholder must abide by the \$250 per candi-date contribution limit. (See Chapter VII.)

- ☐ 2. An INDEPENDENT COMMITTEE is a committee which is not controlled by a candidate or controlled committee, and which does not act jointly with a candidate or controlled committee in connection with the receipt or solicitation of contributions or the making of expenditures. A committee may be controlled with respect to one or more candidates and independent with respect to other candidates.
- ☐ a) A recipient committee may also be an independent committee. (See C.1, above.)
- ☐ b) An expenditure committee is a committee which does not receive contributions, but makes independent expenditures of \$250 or more in a calendar year. (This differs from the State's \$500 threshold.)
An independent expenditure is an expenditure made by anyone in connection with a communication which expressly urges a particular result in an election, but which is NOT made at the behest of the affected candidate or committee. (Cal. Govt. Code §82031)
- ☐ 3. An ORGANIZATION is defined as an entity which receives donations, membership dues, or both. An organization which makes contributions to one or more Berkeley candidates or Berkeley committees totalling \$1,500 or more in the current calendar year, as well as \$1500 or more within the two-year period preceding the current calendar year, must file as a committee. (FCPC Regulation 84-1)

The reason that some organizations are required to file as committees is to ensure that the Berkeley electorate is aware of the persons contributing to these organizations, whose money is then used as campaign contributions.

IV.

WHEN MUST CAMPAIGN STATEMENTS BE FILED?

This chapter is divided into seven sections. The Fixed Filing Schedule applies to all filers. The other six sections relate to more specific circumstances. Check each section that applies to you and then familiarize yourself with all applicable rules.



Section A. FIXED FILING SCHEDULE
Applies to all filers.



Section B. STATEMENT OF ORGANIZATION
Applies to all committees.



Section C. COMMITTEES PRIMARILY FORMED TO SUPPORT OR OPPOSE THE QUALIFICATION OF A BALLOT MEASURE



Section D. SPECIAL ELECTIONS
Applies to officeholders, candidates and committees involved in elections not held in June or November.



Section E. LATE CONTRIBUTIONS
Applies to all filers who receive a contribution of \$100 or more before the election but after the closing date of the last campaign statement required to be filed prior to an election.



Section F. STATEMENT OF TERMINATION
Applies to candidates and committees who are no longer active.



Section G. LATE FILING PENALTIES
Applies to all filers.

A. FIXED FILING SCHEDULE

BERKELEY OFFICEHOLDERS, CANDIDATES AND COMMITTEES MUST FILE A SEMI-ANNUAL STATEMENT FOR EACH HALF OF THE YEAR, WHETHER OR NOT THEY HAVE HAD ANY CAMPAIGN-RELATED ACTIVITY DURING EACH SIX-MONTH PERIOD.

During the six-month period in which they are involved in an election, BERKELEY OFFICEHOLDERS, CANDIDATES AND COMMITTEES MUST FILE TWO PRE-ELECTION STATEMENTS IN ADDITION TO THE SEMI-ANNUAL STATEMENTS.

During the six-month period when they are not directly involved in an election, BERKELEY OFFICEHOLDERS, CANDIDATES AND COMMITTEES MAY HAVE TO FILE FORM 495 IN ADDITION TO THEIR SEMI-ANNUAL STATEMENTS. Check pages 25 and 26 for further explanation.

The following schedule will inform you of your basic filing obligations.

Please pay close attention to the PERIOD COVERED and the FILING DEADLINE.

1986 FILING SCHEDULE

<u>TYPE OF STATEMENT</u>	<u>PERIOD COVERED*</u>	<u>FILING DEADLINE</u>	<u>WHO MUST FILE</u>
<u>Pre-Election:</u> FIRST PRE-ELECTION FOR JUNE ELECTION	Jan. 1-March 17	<u>MARCH 22</u>	Officeholders, candidates and committees supporting or opposing candidates or measures in the June election.
<u>Pre-Election:</u> SECOND PRE-ELECTION FOR JUNE ELECTION	March 18-May 17	<u>MAY 22</u>	Officeholders, candidates and committees supporting or opposing candidates or measures in the June election.
STATEMENT OF LATE CONTRIBUTIONS**	24 HOURS AFTER receipt of a contribution of \$1000 or more after the closing date of 2nd pre-election statement. 48 HOURS AFTER receipt of a contribution of \$100- \$999 after closing date of 2nd pre-election statement.***		Officeholders, candidates or committees making or receiving a single contribution of \$100 or more after the closing date of the second pre-election statement but before the election.

* The period covered by any statement begins on the day after the closing date of the last statement filed. The period covered begins on Jan. 1st if no previous statement filed.

** Must be delivered by mailgram, telegram or guaranteed overnight mail through the U.S. Postal Service OR delivered in person.

*** The requirement does not exempt filers from the \$250 per candidate contribution limitation.

1986 FILING SCHEDULE -continued

<u>TYPE OF STATEMENT</u>	<u>PERIOD COVERED*</u>	<u>FILING DEADLINE</u>	<u>WHO MUST FILE</u>
<u>Semi-Annual:</u> POST-ELECTION FOR JUNE ELECTION	Day following closing date of last statement filed through June 30. <u>OR</u> , if no previous statement filed, Jan. 1-June 30.	<u>JULY 31</u>	All officeholders, candidates and committees, <u>whether or</u> <u>not they have had any campaign</u> <u>activity.</u>
<u>Pre-Election:</u> FIRST PRE-ELECTION FOR NOVEMBER ELECTION	July 1-Sept. 30	<u>OCT 5</u>	Officeholders, candidates and committees supporting or oppos- ing candidates or measures in November election.
<u>Pre-Election:</u> SECOND PRE-ELECTION FOR NOVEMBER ELECTION	Oct. 1-Oct. 18	<u>OCT 23</u>	Officeholders, candidates and committees supporting or oppos- ing candidates or measures in November election.
STATEMENT OF LATE CONTRIBUTIONS**	24 HOURS AFTER receipt of a contribution of \$1000 or more after the closing date of 2nd pre-election statement. 48 HOURS AFTER receipt of a contribution of \$100- \$999 after closing date of 2nd pre-election statement.***		Officeholders, candidates or committees making or receiving <u>a single contribution of \$100</u> <u>or more after the closing date</u> <u>of the second pre-election</u> <u>statement but before the elec-</u> <u>tion.</u>
<u>Semi-Annual:</u> POST-ELECTION FOR NOVEMBER ELECTION	Day following closing date of last statement filed through Dec. 31. <u>OR</u> , if no previous statement filed, July 1-Dec. 31	<u>JAN. 31, 1987</u>	All officeholders, candidates and committees, <u>whether or not</u> <u>they have had any campaign</u> <u>activity.</u>

* The period covered by any statement begins on the day after the closing date of the last statement filed. The period covered begins on Jan. 1st if no previous statement filed.

** Must be delivered by mailgram, telegram or guaranteed overnight mail through the U.S. Postal Service OR delivered in person.

*** The requirement does not exempt filers from the \$250 per candidate contribution limitation.

B. STATEMENT OF ORGANIZATION

A "Statement of Organization" is a special Berkeley form which must be filed by a committee within 10 days after the committee is formed. See Chapter VIII for further requirements.

C. COMMITTEES PRIMARILY FORMED TO SUPPORT OR OPPOSE THE QUALIFICATION OF A LOCAL BALLOT MEASURE.

Committees primarily formed to support or oppose the qualification of a local ballot measure are required to file a campaign statement not later than 35 days after the deadline for filing petitions, OR 35 days after the date of notification that the measure has either qualified or failed to qualify, which-ever date is earlier. The period covered by this statement is January 1, 1986 through 7 days prior to the date when the statement is due. (If the qualification effort extends into a previous calendar year, however, the period covered begins with the first reportable transaction.) After this statement is filed, the future filing obligations of the committee are as prescribed by the Fixed Filing Schedule (Section A, this Chapter, pages 8-9).

D. SPECIAL ELECTIONS

Berkeley elections are sometimes held at times other than June or November of even-numbered years (when State elections are held). Candidates and committees directly involved in such elections are required to file two pre-election statements and one post-election semi-annual statement on a schedule adjusted to correspond to the election's actual date. The City Clerk's Office will provide candidates and committees with adjusted filing schedules in the event of such an election.

E. LATE CONTRIBUTIONS

Late Contributions are contributions of \$100 or more received before the election but after the closing date of the last campaign statement required to be filed prior to an election.

BERA §2.12.145

Both the candidate or committee making the late contribution AND the recipient of the late contribution have a filing obligation.

Candidates and committees receiving or making a late contribution of \$100-\$999 from a single source must report the contribution within 48 hours of the time it is received or made.

Late contributions of \$1000 or more from a single source must be reported within 24 hours.

See Chapter VIII for further requirements.

F. STATEMENT OF TERMINATION

Candidates or committees may file a "Statement of Termination" at any time as long as they are no longer active in campaigns, do not anticipate becoming active, and have no surplus funds or outstanding debts.

See Chapter VIII for further requirements.

G. LATE FILING PENALTIES

Under State law, statements which are not timely filed are subject to a late filing fee of \$10 for each day a statement is past due. Deadlines may be extended, on an individual basis, only if good cause is shown.

Govt. Code §91013

Intentional failure to file may be a misdemeanor under State and Berkeley law.

Furthermore, the FCPC has adopted a policy of automatic and regular press releases of the names of all officeholders, candidates and committees failing to file within 30 days of a filing deadline.

V.

REPORTING AND RECORD-KEEPING REQUIREMENTS: CONTRIBUTIONS

Contributions are extensively defined in BERA §2.12.100. Contributions include a gift, loan, advance, deposit, forgiveness of a debt, or promise of money or anything of value received by a candidate or committee for the purpose of influencing the voters. Contributions also include the purchase of tickets for fundraising events, discounts from vendors, transfers of money, goods or services from other committees, including controlled committees; and a candidate's own money used on behalf of her or his candidacy.

Contributions do not include a gift of service or labor. They also do not include the use of personal or real property or food or beverages, the value of which is \$50.00 or less. These non-monetary (in-kind) contributions are calculated at their fair market value and must be disclosed in the same manner as other contributions.

There are a number of requirements regarding the receipt of contributions:

1. A candidate or committee must have a treasurer before a contribution may be accepted on behalf of a candidate or committee. To fulfill this requirement, a candidate without a committee may appoint her/himself as treasurer.
(BERA §2.12.245)
2. Candidates, treasurers and officeholders must keep detailed accounts, records, bills and receipts of contributions over \$25.00, including the date and amount of contribution, the name of the contributor(s), and the type of contribution (e.g., monetary, in-kind). The cumulative amount of contributions must also be kept.
(2 Cal.Admin. Code §18401)
3. Campaign checking accounts to be in Alameda County. All contributions received must be placed in a campaign checking account located in Alameda County.
(BERA §2.12.250)
4. Separate campaign accounts must be maintained if a candidate or committee receives or expends money on a Berkeley candidate as well as a non-Berkeley candidate or on any ballot measure.
(FCPC Regulation 82-1) Thus, money spent on or received from a Berkeley candidate will be distinguishable from money spent on or received from a non-Berkeley candidate or on any measure. We require separate accounts in order to enforce Berkeley's \$250 per candidate contribution limitation as well as the prohibition on contributions from corporations or labor unions. (See Chapter VII.)

A candidate or committee may be exempt from the segregated account requirement if: the candidate or committee did not receive any contributions from a corporation or labor union and did not receive more than \$250 cumulative contributions from any source.
(FCPC Regulation 82-1)

5. Commingling personal funds with campaign contributions is prohibited.
No contributions may be comingled with any personal funds.
(BERA §2.12.245)
6. Contributions to be made in contributor's legal name. No contribution may be made by a person in a name other than that person's legal name.
(BERA §2.12.305)
7. No contribution may be made by a person on behalf of another person.
(BERA §2.12.310)
8. All contributions, regardless of amount, must be disclosed in campaign statements.
(BERA §2.12.280)
9. All contributions of \$50 or more must be disclosed and itemized on campaign statements with the contributor's full name and street address, occupation and employer, principal place of employment if self-employed, the date on which the contribution was received, and the cumulative amount she/he has contributed for the two-year election period. Itemization must take place once the donor's contributions total \$50 or more within the two-year election period.

If the contributor is a committee, the name and address of the treasurer must be reported.
(BERA §2.12.280G)

All contributions, whatever their amount, must be itemized once the candidate or committee receives \$1,500 in contributions of \$50 or less.
(See item #12, below.)
10. Monetary contributions of \$50 or more must be made by a written instrument (e.g., check) and include the donor's and recipient's names.
(BERA §2.12.300)
11. No anonymous contributions of more than \$50 may be accepted by committee treasurers.
(BERA §2.12.320)
12. The first \$1,500 raised in contributions of \$50 or less must be reported in the aggregate but are exempt from having to provide additional information such as the contributor's name, address, etc. Once the \$1,500 threshold in contributions of \$50 or less has been reached, each contribution, regardless of amount, must be itemized as above.
(BERA §2.12.430)
13. The Designation Requirement: Committees which raise or spend money to support or oppose any Berkeley candidate and for any non-Berkeley candidate or for any measure, must receive designations from donors who wish to contribute to a Berkeley candidate that their contributions may be used in that manner.
(FCPC Regulation 82-1)

The purpose of this designation requirement is to distinguish contributions which are subject to Berkeley's \$250 per candidate contribution limitation and Berkeley's prohibition of corporate and union contributions to candidates from all other contributions. (See Chapter VII for

an explanation of these limitations.)

Committees which receive contributions solely for candidates or solely for measures in Berkeley municipal elections are not subject to the designation requirement. Contributions of less than \$50 are likewise exempt from this requirement.

For those committees which are subject to the designation requirement, candidate contributions must be designated in one of two ways:

- a) the donor may include a designation in writing at the time the contribution is made and this document must be kept with campaign records; or,
- b) the committee treasurer may verify a donor's designation orally (be telephone, for example) and send a letter of confirmation within 10 days of the date the verification is made, and a copy of the letter must be kept with campaign records.

THE COMMISSION RECOMMENDS: using the following form (to be completed by the donor) to ensure compliance with the designation requirement. This form may be picked up at the City Clerk's office or copied from this page.

TO: _____
(Candidate or Committee)

STATEMENT BY DONOR
SPECIFYING CONTRIBUTIONS
MAY BE USED TO SUPPORT OR OPPOSE
CANDIDATES IN BERKELEY ELECTIONS

I, _____, understand that my
(Print or type)
contribution(s) _____ or membership dues _____ may be used, in
whole or in part, for candidates in Berkeley municipal elections, at
the discretion of _____.
(Candidate or committee)

I also understand that my contribution(s) supporting or opposing each
candidate in any single election may not exceed two hundred and fifty
dollars (\$250) and may not originate from corporate or labor union fund
(in accordance with the Berkeley Election Reform Act).

(Signature of Donor) (Date)

14. A late contribution of \$100 - \$999 must be reported within 48 hours.
A late contribution of \$1000 or more must be reported within 24 hours.
(BERA §2.12.145)
15. Contributors to slate committees or to more than one committee
supporting the same candidate must abide by CONTRIBUTION LIMITATIONS.
(See Chapter VII.)

ALL RECORDS MUST BE ADEQUATE TO DOCUMENT THE ACCURACY
OF CAMPAIGN STATEMENTS.

All documents concerning receipts of \$50 or more and
records of miscellaneous receipts of \$25 or more must
be kept. Receipts must include the date, amount, source
and description of value received. These records include
but are not limited to receipts, interest from savings,
designations of candidate contributions, loan agreements,
etc.

RECORDS MUST BE KEPT FOR 60 DAYS FROM THE DATE A FINAL
REPORT IN CONNECTION WITH AN ELECTION IS FILED.

(BERA §2.12.250)

Please note that the State required records be kept for a
minimum of four years following the date that the campaign
statement to which they relate is filed.

(2 Cal.Admin. Code 18401, Cal. Govt. Code §84104)

UPON REQUEST, THE CAMPAIGN TREASURER MUST MAKE ALL RECORDS
AVAILABLE to the Fair Campaign Practices Commission, the
City Attorney, the District Attorney, the California Attor-
ney General, or the California Secretary of State.

VI.

REPORTING AND RECORD-KEEPING REQUIREMENTS: EXPENDITURES

An expenditure is a payment, pledge, or promise of payment for goods, services, materials or facilities for the purpose of influencing the voters.

This differs from a contribution, which is generally an open-ended gift of money from the donor to the recipient.

Transfers of money, payments, gifts, loans (and the forgiving of loans) and promises of payment made by one committee to another are also expenditures. Therefore, a contribution from one committee to another is considered an expenditure for the donating committee.

(BERA §2.12.130)

THERE ARE STRICT REQUIREMENTS REGARDING THE MAKING AND REPORTING OF EXPENDITURES:

1. All expenditures must be made from a campaign checking account located in Alameda County.
(BERA §2.12.250)
2. Separate checking accounts may be required under certain circumstances.
(FCPC Regulation 82-1) See Chapter V.
3. Candidates, treasurers and officeholders must keep detailed accounts, records, bills, and receipts of expenditures over \$25 including the date of payment, amount of payment, name of person paid and description of value received for each payment.

The cumulative amount of expenditures must also be kept.
(2 Cal. Admin. Code §18401)
4. All expenditures of \$50 or more must be made by a written instrument (e.g., a check) and the treasurer must retain vouchers and receipts documenting each such expenditure.
(BERA §2.12.250)
5. All expenditures of \$50 or more must be disclosed and itemized in campaign statements giving the following information: the amount of each expenditure, the full name and street address of each person or vendor to whom the expenditure was made, and a brief description of what was purchased or obtained. If the person to whom the payment is made is different from the person providing the goods or services being paid for, the full name and street address of the person or vendor actually providing the goods or services must be disclosed.
(BERA §2.12.280H)
6. Expenditures made by an agent or independent contractor of a candidate or committee must be reported as if made directly by the candidate or committee. The agent or independent contractor's overhead or normal operating expenses need not be reported.
(BERA §2.12.315)

7. A candidate must report the name and address of any committee which has received contributions or made expenditures on her/his behalf.
(BERA §2.12.280K)
8. Expenditures must be separately totalled and disclosed for each candidate and/or measure a committee supports or opposes.
In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures made for or against each candidate and/or measure during the period covered by the campaign statement and the cumulative amount of expenditures for or against each candidate or measure since the beginning of the two-year election cycle must be reported.
(BERA §2.12.280I)
9. Expenditures to candidates and measures must be allocated under one of the following, mutually exclusive categories:

a) Contribution to a candidate or committee.

Expenditures which are contributions must be allocated equally among the candidate(s) and/or ballot measure(s) being supported or opposed, unless the donor directs otherwise in writing.

b) Expenditures for communications in aid of or in opposition to a candidate or measure.

Expenditures for communications must also be allocated equally among those candidates and/or ballot measures which are clearly identified in the communication, unless the donor directs otherwise in writing.

Communication expenditures include all costs without which the communication would not have taken place, and includes, but is not limited to, the costs for salaries, postage, printing, broadcast time, etc.

Allocation of expenditures to a candidate or measure only incidentally mentioned in a communication may be done by any reasonable accounting method.

c) Expenditures for overhead, administration, and general operations and all other expenditures not assigned to a) or b) above.

Allocation for overhead expenditures includes such general expenditures such as those for rent, utilities, staffing, contribution allocation, fundraising events, etc. Allocation to each candidate or measure must bear a reasonable relationship to all expenditures for campaign communications in b) above.

(Please see FCPC Regulation 82-2 for further explanation.)

ALL RECORDS MUST BE ADEQUATE TO DOCUMENT THE ACCURACY OF CAMPAIGN STATEMENTS.

All documents concerning receipts of \$50 or more and records of miscellaneous receipts of \$25 or more must be kept. Receipts must include the date, amount, source and description of value received. These records include but are not limited to receipts, interest from savings, designations of candidate contributions, loan agreements, etc.

RECORDS MUST BE KEPT FOR 60 DAYS FROM THE DATE A FINAL REPORT IN CONNECTION WITH AN ELECTION IS FILED.

(BERA §2.12.250)

Please note that the State required records be kept for a minimum of four years following the date that the campaign statement to which they relate is filed.

(2 Cal.Admin. Code 18401, Cal. Govt. Code §84104)

UPON REQUEST, THE CAMPAIGN TREASURER MUST MAKE ALL RECORDS AVAILABLE to the Fair Campaign Practices Commission, the City Attorney, the District Attorney, the California Attorney General, or the California Secretary of State.

VII.

LIMITATIONS AND PROHIBITIONS

A. \$250 LIMIT ON CONTRIBUTIONS TO CANDIDATES

NO PERSON, OTHER THAN THE CANDIDATE, MAY CONTRIBUTE MORE THAN TWO HUNDRED AND FIFTY DOLLARS (\$250) TO SUPPORT OR OPPOSE A SINGLE CANDIDATE WITHIN A TWO-YEAR GENERAL ELECTION PERIOD.

-BERA §2.12.415 and FCPC Regulation 81-7

- * The two-year general election period begins on January 1st of each odd-numbered year and ends on December 31st of the following year.
- * The \$250 contribution limitation applies to direct and indirect contributions to candidates. It therefore applies to contributions to controlled committees. It does not apply to contributions to ballot measures.
- * Both the contributor and the campaign treasurer are responsible for abiding by the contribution limitation. A contributor may not give more than \$250 to a single candidate during the two-year election period and a treasurer may not accept a contribution of more than \$250 from a single contributor for a single candidate during the two-year election period.

Example:

In January of 1985, Ms. Jones contributed \$200 to the Friends of Smith, an ongoing committee organized for and controlled by Joe Smith, a Berkeley officeholder who is running for re-election in November of 1986. In September of 1986, Ms. Jones wishes to contribute to the Friends of Smith once again. To comply with the \$250 contribution limitation, Ms. Jones' donation may not exceed \$50. Both Ms. Jones and the Friends of Smith committee may be held responsible for a violation of Berkeley law if Ms. Jones contributes and the committee accepts a second (September) contribution in an amount greater than \$50. However, beginning January 1, 1987, Ms. Jones may again contribute up to \$250 to the Friends of Smith.

1. CONTRIBUTIONS TO A SLATE COMMITTEE

A donation to a slate committee supporting more than one candidate will not violate the contribution limitation as long as the amount contributed during the two-year general election period does not exceed \$250 multiplied by the number of candidates supported by the slate committee. A donor may allocate her/his contribution in a manner other than equally to each candidate if she/he does so in writing and does not violate the \$250 contribution limitation.

FCPC Regulation 81-6

Example:

Ms. Jones wants to contribute to the XYZ Committee which supports four candidates for City Council. Ms. Jones may donate up to \$1,000 ($\250×4) to the XYZ Committee without violating the contribution limitation as long as she does not make any other contributions to these four candidates.

2. CONTRIBUTIONS TO MORE THAN ONE COMMITTEE SUPPORTING THE SAME CANDIDATE

Donations to more than one committee supporting the same candidate will not be in violation of the \$250 contribution limitation as long as no individual contributes more than \$250 directly or indirectly to a single candidate within the two-year election period. Contributions to more than one committee supporting the same candidate must simply be tallied so as not to break this simple rule (FCPC Regulation 81-6). This is best illustrated by example.

Example:

Ms. Jones wants to contribute to the XYZ Committee which supports four candidates for City Council, including Jane Doe. Ms. Jones also wants to contribute to the Friends of Jane Doe, a separate committee organized to support the candidacy of Jane Doe. Ms. Jones' total contribution to the XYZ Committee during the two-year election period may not exceed \$1,000 (since a total of four candidates are supported by this committee and $\$250 \times 4 = \$1,000$). Ms. Jones could choose, however, to contribute \$400 to the XYZ Committee (thereby automatically contributing \$100 to each of the four candidates XYZ supports) and \$150 to Friends of Jane Doe (thereby reaching the \$250 contribution limit for candidate Jane Doe).

Alternatively, Ms. Jones may designate in writing that she does not wish any of her \$400 contribution to XYZ Committee to go to Jane Doe. Ms. Jones would then be free to contribute \$250 to Jane Doe the candidate or to Friends of Jane Doe.

B. CANDIDATE CONTRIBUTIONS FROM A CORPORATION OR LABOR UNION PROHIBITED

DIRECT OR INDIRECT CONTRIBUTIONS FROM A CORPORATION OR LABOR UNION TO A CANDIDATE OR A COMMITTEE TO SUPPORT OR OPPOSE A CANDIDATE FOR BERKELEY MUNICIPAL OFFICE ARE PROHIBITED.

-BERA §2.12.440

REMEMBER:

1. The prohibition on contributions from a corporation or labor union applies only to contributions to a candidate or a committee to support or oppose a candidate in a Berkeley municipal election. The limitation does not apply to ballot measures, with the exception of a ballot measure which recalls a candidate.

2. The prohibition on contributions from a corporation or labor union applies to direct as well as indirect contributions. If the contribution did not come from a prohibited source but can be traced to a prohibited source, it is a prohibited contribution.

Example:

The Committee for Jane Doe, candidate for the Berkeley City Council, received a contribution from the Committee for State Senator John Smith. The Senator receives contributions from Corporation F and from labor union #123 (and does not keep them separate from the contributions he receives from individuals). The Committee for Jane Doe cannot legally accept this contribution. However, if Senator John Smith keeps his corporate and labor union contributions separate from other contributions he receives, then the Committee of Jane Doe may accept as much as \$250 from Senator Smith's non-corporate account.

3. Monies from a prohibited source may be kept in a separate bank account for use in supporting or opposing measures or non-Berkeley candidates.

-FCPC Regulation 82-3

4. It is the treasurer's responsibility to make sure a particular contribution is not from a prohibited source. The treasurer should keep all records of deposits and disbursements and should be able to demonstrate by a reasonable accounting method that these contributions are not from a prohibited source.

-FCPC Regulation 82-3

5. A campaign treasurer for a candidate or a committee in support of or in opposition to a candidate in receipt of a contribution from a potentially prohibited source should request a written statement from the contributor, within two days of receiving the contribution, indicating that the contributor is not a corporation, labor union or business trust and that the contributor does not receive contributions from such entities unless the contributor keeps the prohibited contributions in a separate bank account where the money is not commingled with monies from individuals.

If, after ten days, the treasurer is unable to determine whether or not the contribution comes from a prohibited source, the treasurer must promptly return the contribution to the donor.

-FCPC Regulation 82-3

Example:

A state legislator who receives both corporate and individual contributions for her/his own campaign committee may only contribute to a Berkeley candidate with funds from a separate bank account from which it can be proven that the money did not come from a prohibited source.

(A state legislator who receives corporate contributions for her/his own campaign may use that money to contribute to Berkeley [non-recall] ballot measures.)

VIII.

FILLING OUT THE FORMS

A. CHOOSING THE CORRECT FORMS

With the exception of the "Statement of Organization" and the "Late Contribution Report," Berkeley uses State campaign disclosure forms, but ANNOTATES them to reflect Berkeley laws.

Please be aware that while Berkeley uses State forms, Berkeley's disclosure requirements may be more strict than the State's. For this reason, it is important that you consult the definitions provided in this workbook, and be sure you use only the forms provided to you by the City Clerk, as only these forms have been annotated to conform to Berkeley law. For a general list comparing State law with Berkeley law, please see Appendix A, pages 37-39.

All forms can be picked up from and returned to the City Clerk at 2180 Milvia Street on the first floor of the Civic Center Building.

The following is a summary of the forms to be used by Berkeley officeholders, candidates and committees. It is recommended that you read the summary of each form listed below and check which forms you and/or your committee will need to file.

- ☐ 1. Candidates and Officeholders
 - ☐ a. Candidate and Officeholder Campaign Statement - Long Form (Form 430)
For use by candidates and officeholders who have raised or spent, or who ANTICIPATE raising or spending, more than \$200 during the period covered by the campaign statement. (This differs from the State's \$500 threshold.)
 - ☐ b. Candidate and Officeholder Campaign Statement - Short Form (Form 470)
For use by candidates and officeholders who have NOT raised or spent, or who do NOT ANTICIPATE raising or spending, \$200 or more during the period covered by the campaign statement. However, candidates and officeholders running in the June or November election must file two pre-election statements and one post-election statement corresponding to their election date, regardless of the amount of campaign activity. (See Chapter IV, pages 8-10.)
 - ☐ c. Consolidated Campaign Statement (Form 490)
For use by candidates and officeholders filing jointly with a controlled committee.
 - ☐ d. Campaign Disclosure Statement Summary Page and accompanying Schedules A - G (For use with Forms 420, 430, and/or 490)
These forms are used by candidates, officeholders and committees who file Forms 420, 430 or 490. The Summary Page summarizes the information disclosed in the accompanying schedules.

Please note that all schedules may not apply to your situation but still must be filed. If they do not apply, simply write the name of the candidate, officeholder or committee and the period covered at the top of the

schedule, and put zeros in the summary spaces at the bottom of the page.

The Schedules are:

☐ A. - Monetary Contributions Received

☐ B. - Loans Received

☐ C. - Non-Monetary Contributions Received

☐ D. - Pledges

☐ E. - Payments and Contributions Made

☐ Attachment E-1 - Payment made by agent or independent contractor on behalf of a candidate or committee.

☐ EE. - Loans Made

☐ F. - Accrued Expenses (Unpaid Bills)

☐ G. - Miscellaneous Adjustments to Cash Position

☐ e. Amendment to Campaign Disclosure Statement (Form 405)
For use by all filers when amending campaign disclosure forms, other than the "Statement of Organization."

☐ f. Statement of Termination (Form 415)
For use by candidates and recipient committees who are no longer active. Candidates and recipient committees do not automatically terminate and may only terminate under the following circumstances:

- They have ceased to receive contributions or make expenditures and do not anticipate receiving contributions or making expenditures in the future; and
- They have eliminated or have declared that they have no intention or ability to discharge all their debts, loans received and other obligations; and
- They have no surplus funds; and
- They have filed all required campaign statements disclosing all reportable transactions.

If, after filing a Statement of Termination, candidates or committees resume raising or spending funds or receive the forgiveness of a loan, additional filing obligations will be incurred.



g. Late Contribution Report

For use by candidates and committees receiving or making a contribution of \$100 or more before the election and after the closing date of the last campaign statement required to be filed prior to an election. Late contributions of \$100 to \$999 from a single source must be reported within 48 hours. Late contributions of \$1,000 or more must be reported within 24 hours. Reports may be personally delivered or sent by the U.S. Postal Service guaranteed overnight delivery service, but NOT by regular mail.

Late contributions are to be reported again on the next campaign disclosure statement.

There is no standard form for filing a Late Contribution Report, but the following format is recommended and the City Clerk can provide you with such a form:

U.S. Postal Service Guaranteed Overnight Delivery Service,
Telegram, or Mailgram, or Hand Delivery.

Name and Address of Filing Officer:

NOTICE OF LATE CONTRIBUTION REPORT

FILER: Name _____
Treasurer _____
Address _____

CONTRIBUTIONS RECEIVED FROM:

1. Contributor's Name _____
Address _____
Occupation _____
Employer _____
Date _____ Amount _____

2. Contributor's Name _____
[Provide information as specified above, for as many entries as needed.]

CONTRIBUTIONS MADE TO:

1. Recipient's Name _____
[Include name of office sought or measure supported/opposed.]
Address _____
Date _____ Amount _____

2. Recipient's Name _____
[Provide information as specified above, for as many entries as needed.]

- ☐ h. Supplemental Independent Expenditure Report (Form 465)
For use by any person or committee which makes an independent expenditure totaling \$500 or more during the period covered by a campaign statement. This form is filed at the same time the candidate or committee being supported or opposed by the independent expenditure files.
- ☐ i. Supplemental Pre-Election Campaign Statement (Form 495)
For use by officeholders, candidates and recipient committees as an attachment to a campaign disclosure statement (Form 420, 430, 450 or 490) if the officeholder, candidate or committee makes contributions totaling \$5,000 or more in connection with an election during a six-month period in which the filer is not otherwise required to file pre-election statements.

☐ 2. Committees

- ☐ a. Statement of Organization (City of Berkeley Form)
For use by committees within 10 days after they are formed.
Under Berkeley law, a committee is "formed" after it has raised or spent \$250 or more.
(BMC §2.12.095)
- Please note that the State requires the filing of a separate Statement of Organization (State Form 410) which must be filed with the Secretary of State within 10 days of the receipt of \$500 or more.
- Further note that the State has recently imposed name identification requirements on sponsored committees and committees which are primarily formed to support or oppose ballot measures. Consult the State Filing Manual for more information or the Resource Directory on page for further assistance.
- ☐ b. Amended Statement of Organization (City of Berkeley Form)
Any changes to the information provided on the Statement of Organization must be reported within 10 days on the same form with "AMENDMENT" clearly designated at the top of the form.
- ☐ c. Recipient Committee Campaign Statement -Long Form (Form 420)
For use by committees which have received \$50 or more from a single source during the period covered by the campaign statement. (This differs from the State's \$100 threshold.)
- ☐ d. Recipient Committee Campaign Statement -Short Form (Form 450)
For use by committees which have not received \$50 or more from a single source during the period covered by the campaign statement and which have no unpaid bills, outstanding loans or unpaid pledges.
- ☐ e. Semi-Annual Statement of No Activity (Form 425)
For use by recipient committees who are not controlled and which have not received any contributions nor made any expenditures during the period covered by the semi-annual campaign statement.
- ☐ f. Consolidated Campaign Statement (Form 490)
For use by controlled committees filing jointly with an officeholder or candidate.

- ☐ g. Campaign Disclosure Statement Summary Page and Accompanying Schedules A - G
For use with Forms 420, 430, and 490. Candidates, officeholders and committees filing these forms must also file all schedules (A - G) even though some forms may not be applicable. (See this Chapter, section 1. d. for further detail.)
- ☐ h. Amendment to Campaign Disclosure Statement (Form 405)
For use by all filers when amending campaign disclosure forms, other than the Statement of Organization.
- ☐ i. Late Contribution Report
For use by candidates and committees receiving or making a contribution of \$100 or more before the election and after the closing date of the last campaign statement required to be filed prior to the election. See this Chapter, section 1. g. for further requirements and detail.
- ☐ j. Supplemental Independent Expenditure Report (Form 465)
For use by any person or committee which makes an independent expenditure totaling \$500 or more during the period covered by a campaign statement. This form is filed at the same time the candidate or committee being supported or opposed by the independent expenditure files.
- ☐ k. Supplemental Pre-Election Campaign Statement (Form 495)
For use by officeholders, candidates and recipient committees as an attachment to a campaign disclosure statement (Form 420, 430, 450 or 490) if the officeholder, candidate or committee makes contributions totaling \$5,000 or more in connection with an election during a six-month period in which the filer is not otherwise required to file pre-election statements.
- ☐ l. Statement of Termination (Form 415)
For use by candidates and recipient committees who are no longer active and have disbursed all surplus funds. Candidates and recipient committees may only terminate under certain circumstances. See this Chapter, section 1. f. for requirements and further detail.

B. COMPLETING THE FORMS

The instructions for completing the annotated State forms which Berkeley uses are attached to the forms available from the City Clerk's office. However, we recommend that you consult Appendix A of this Manual (page) before completing the forms to ensure that you understand the major substantive differences between Berkeley's campaign disclosure laws and the State's. Most notable of these differences is that Berkeley prohibits direct and indirect contributions from labor unions and corporations which support or oppose a Berkeley candidate. Another primary difference is that no person may contribute more than \$250 to a Berkeley candidate within any two-year general election period.

FILERS ARE ALSO RESPONSIBLE FOR THE FOLLOWING:

- . Forms are suitable for reproduction.
- . Forms are turned in in triplicate.
- . The correct filing period has been designated.
- . All Forms are signed, dated and verified.

This means that all forms are signed under penalty of perjury, that the signer has used all reasonable diligence in their preparation, and that, to the best of her/his knowledge, all data and statements appearing on the forms are both true and complete.

A report filed by a committee must be signed and verified by its treasurer.

Controlled committees must have their forms and statements signed and verified by the candidates who control them. If a committee is controlled by more than three candidates, then one of the controlling candidates may sign on behalf of all the controlling candidates.

IX.

COMMON QUESTIONS

1. WHERE DO I GET THE NECESSARY FORMS?

The campaign disclosure forms are available from the City Clerk at 2180 Street. If you are unclear as to which forms you must complete, contact Fair Campaign Practices Commission Staff at 644-6380.

2. WHERE CAN I GET ADVICE REGARDING THE INTERPRETATION OF CAMPAIGN DISCLOSURE LAWS?

Commission Staff is available for technical assistance and advice on an informal basis. You may also request a formal opinion from the Commission with respect to your filing obligations or the interpretation of the Berkeley Election Reform Act (BERA) and FCPC Regulations. The Commission is required to issue the opinion within 14 days of receiving such a request. (BERA §2.12.220)

3. IS A LOAN A CONTRIBUTION?

The Berkeley Election Reform Act includes a loan in the definition of a contribution. Therefore, a loan to a candidate or a committee supporting or opposing a candidate will be counted against the \$250 contribution limitation for the election period in which it is made.

4. WHAT ARE PERMISSIBLE USES OF SURPLUS CAMPAIGN FUNDS?

State law prohibits the personal use of campaign funds and designates permissible uses of surplus funds. (Elections Code §12400 et seq.) These permissible uses include:

- the payment of outstanding campaign expenses,
- the repayment of personal or committee loans if campaign-related,
- donations to any religious, scientific, educational, social welfare, civic or fraternal organization which is exempt from taxation under Internal Revenue Code of 1954, §501 (c),
- the pro rata repayment of contributors,
- the holding of funds in a segregated account for use in future political campaigns; and
- contributions to any candidate, committee or political party.
(See Chapter VII. "Limitations and Prohibitions.")

5. HOW ARE CONTRIBUTIONS FROM A CANDIDATE'S PERSONAL FUNDS TO HER/HIS OWN CAMPAIGN REPORTED?

When a candidate uses her or his personal funds for campaign purposes, it must be reported on the campaign statement. However, a contribution from a candidate's personal funds for her/his own campaign is not subject to the

\$250 contribution limitation. The State Fair Political Practices Commission recommends the following methods of reporting:

- Candidate contributes personal funds to her/his own campaign account:
Report as contribution received on Schedule A.
- Candidate makes a loan of personal funds to campaign account:
Report as loan received on Schedule B.
- Candidate pays a vendor directly and does not intend to be reimbursed:
Report contribution received from candidate on Schedule A, and report payment made on Schedule E.
- Candidate pays a vendor directly and is reimbursed by campaign funds within the reporting period:
Report as reimbursement to candidate on Schedule E.
- Candidate pays a vendor directly and intends to be reimbursed but is not reimbursed within the reporting period:
Report as reimbursement to candidate on Schedule F.

6. ARE TRANSFERS BETWEEN COMMITTEES SUBJECT TO THE \$250 PER CANDIDATE CONTRIBUTION LIMITATION?

Yes. A transfer of money or anything of value from one committee to another is a contribution, unless it represents a payment for goods or services received and paid for at full market value. A transfer which is a contribution is subject to the \$250 per candidate contribution limitation.

7. MAY A WIFE AND HUSBAND MAKE SEPARATE CONTRIBUTIONS USING ONE CHECK?

Yes. If a wife and husband wish to make separate contributions to a candidate or committee using one check, each spouse must sign the check or submit to the candidate or committee treasurer a written statement signed by both spouses which states that each spouse is making a contribution. It will be assumed that each spouse is contributing one half the total amount of the check unless designated differently in writing by the contributors.
(FCPC Regulation 84-3)

8. WHEN MAY I STOP FILING CAMPAIGN DISCLOSURE STATEMENTS?

An officeholder may NOT terminate her/his filing obligations while still in office.

A candidate or recipient committee who is inactive (i.e., neither receiving contributions nor making expenditures and having no expectations of doing so in the future) may terminate filing obligations if there are no surplus funds, no outstanding loans or unpaid bills (or there is inability to discharge any debt), and all required campaign disclosure statements have been filed.

9. MUST I FILE CAMPAIGN DISCLOSURE STATEMENTS IN BERKELEY IF I SUPPORT A COUNTY OR STATE CANDIDATE OR MEASURE ONLY?

No. Only committees and candidates supporting or opposing Berkeley candidates and/or measures need to file in accordance with Berkeley law.

10. WHAT HAPPENS IF A CANDIDATE OR TREASURER IS NOT AVAILABLE TO SIGN A CAMPAIGN STATEMENT IN TIME TO MEET THE FILING DEADLINE?

An agent of the candidate or treasurer may sign the campaign statement and attach a note to the effect that as soon as the candidate or treasurer becomes available, she/he will verify and sign the statement; and, an amendment bearing the proper signature will be filed as soon as possible.

11. WHEN IS ITEMIZATION REQUIRED ON A CAMPAIGN DISCLOSURE STATEMENT?

Each campaign statement must contain the total amount of all receipts and expenditures during the period covered and the total cumulative amount to date. In addition, all cumulative contributions of \$50 or more from a single source must be itemized, giving the name, address, occupation, employer of each contributor as well as the date and amount of contributions. And, all expenditures of \$50 or more during the period must be itemized, giving the name and address of the person from whom the goods or services were obtained and a brief description of the goods or services received for the expenditure.

12. IF A CANDIDATE CHOOSES TO CREATE A COMMITTEE, CAN SHE/HE DESIGNATE HER/HIMSELF AS TREASURER?

Yes. A candidate may be her or his own committee treasurer.

13. DOES VOLUNTEER WORK IN SUPPORT OF OR IN OPPOSITION TO A CANDIDATE OR MEASURE CONSTITUTE A REPORTABLE CONTRIBUTION?

No. The term contribution does not include a gift of service or labor to the candidate, officeholder or committee.

X.

SPECIAL PROBLEMS

1. LOANS

Loans are considered contributions but require special treatment under the law. (BERA §2.12.100) Loans have special disclosure requirements. The filer must report all loans made or received during the reporting period. Loans are reported on separate schedules (A, B, or EE) which require disclosure of the name, address and occupation of the lender or recipient, and the interest rate, due date, amount and cumulative amount of all loans from the same lender or recipient.

Loans which are forgiven by the lender or repaid by a third party must be reported on Schedule A. Furthermore, officeholders, candidates and committees must report the status of all loans made or received to date once each calendar year.

2. RECALL ELECTIONS

Recall measures are subject to the \$250 contribution limitation as well as the prohibition on corporate, labor union and business trust contributions.

3. SPECIAL CANDIDATE ELECTIONS

The \$250 contribution limitation applies to special candidate elections (including recall measures) which are held during the period between the general municipal elections. The cumulative period for these elections ends on the closing date of the post-election statement. The City Clerk will make available the filing schedule for special elections.

4. MASS MAILINGS

"Mass mailing" means 200 or more identical or nearly identical pieces of mail, but does not include a form letter or other mail which is sent in response to a request, letter or other inquiry. (BERA §2.12.150)

Berkeley law requires that a copy of every mass mailing either be hand-delivered to the City Clerk within one day after the day the mass mailing was first placed in the U.S. Mail or addressed to the Commission and deposited in the U.S. Mail on the same day as the first pieces are deposited in the U.S. Mail.

In addition, State law requires that mass mailings include the name and address of the sender. (BERA §2.12.325, FCPC Regulation 83-1)

5. PAYING DEBTS FROM A PRIOR ELECTION

Contributions received in one election period in support of or in opposition to a candidate may be used to pay debts incurred in a prior election only if the donor designates in writing that the contribution is to be used to pay prior campaign debts. If the donor so designates, the \$250 per candidate contribution limitation is applied to the previous election period. (FCPC Regulation 81-7)

6. UNPAID BILLS

Payments for goods or services are considered expenditures and are thus not restricted by the \$250 per candidate contribution limitation. However, when bills for goods or services remain unpaid, at some point they become loans.

Loans are considered contributions by both Berkeley and the State. Therefore, unpaid bills are restricted by the \$250 contribution limitation when they are outstanding for a long enough period to be arguably classified as loans. To avoid problems which may arise from this restriction, it is strongly recommended that committees, candidates and officeholders pay their bills before the close of the election year in which the expenses arose.

7. FUNDRAISERS

If an individual holds a fundraiser for a candidate or committee, the candidate or committee must report it as an in-kind contribution to the extent that the personal or real property used or the value of food or beverages served exceeds \$50.

Persons who volunteer their services at the fundraiser need not have the value of their services reported.

A candidate or committee holding a fundraiser must report the money spent as an expenditure.

XI.

ESSENTIAL CHECKLIST FOR COMPLIANCE WITH BERA

1. MUST I FILE?

YES, if you are a:

- ☐ a) Berkeley Officeholder
- ☐ b) Candidate for Berkeley Municipal Election
- ☐ c) Committee

2. WHEN MUST I FILE?

- ☐ Consult Chapter IV, "When Must Campaign Statements Be Filed?"
- ☐ Semi-annually if you are a candidate, committee or officeholder.
- ☐ More frequently if you are supporting or opposing candidates or measure in the upcoming election.

3. WHAT FORMS MUST I FILE?

Check the list of forms that appears in Chapter VIII, "Filling Out the Forms". Mark which forms apply to your situation. If you are the treasurer of a committee, be sure to determine what type of committee you account for as this affects which forms are required to be filed. See Chapter III, "Who Must File?" for definitions of committee types. For further assistance, contact the City Clerk's office at 644-6480 or the FCPC staff at 644-6380.

4. WHERE DO I GET THE FORMS I NEED TO FILE?

Pick up the forms from the City Clerk at the first floor window of the Civic Center Building at 2180 Milvia Street in Berkeley.

5. ARE MY FORMS CORRECTLY FILLED OUT?

- ☐ a) Forms must be reproducible, i.e., legibly printed in black ink or typewritten.
- ☐ b) Forms must be submitted in triplicate.
- ☐ c) Forms must be verified, i.e., signed under penalty of perjury as true, complete and prepared with due diligence.
- ☐ d) Signatures appear where required.

- ☐ e) Dated
- ☐ f) Filing period covered must be specified.
- ☐ g) Mailing addresses must be accurate and complete.
- ☐ h) You have reported all contributions.
- ☐ i) You have reported all expenditures.
- ☐ j) You have itemized all contributions of \$50 or more
by reporting:
- ☐ date of contribution
- ☐ amount of contribution
- ☐ name and address of contributor
- ☐ occupation and employer of contributor
- ☐ type of contribution
- ☐ k) You have identified contributors who gave any amount once \$1,500
in contributions of \$50 or less have been received and itemized
their contributions by reporting:
- ☐ date of contribution
- ☐ amount of contribution
- ☐ name and address of contributor
- ☐ occupation and employer of contributor
- ☐ type of contribution
- ☐ l) You have itemized all expenditures of \$50 or more by reporting:
- ☐ description of goods or services
- ☐ date of payments
- ☐ amount of payments
- ☐ name of payees
- ☐ address of persons providing goods or services if different
from payee.

- ☐ m) All expenditures have been allocated to candidates and/or measures supported or opposed by the officeholder, candidate or committee.

6. \$250 CONTRIBUTION LIMIT

- ☐ No person (other than a candidate contributing to her/his own campaign) contributed more than \$250 within the two-year cumulative election period to a single candidate with respect to a single Berkeley election.

7. CONTRIBUTION PROHIBITIONS

- ☐ No direct nor indirect contributions from a corporation or labor union were accepted by a candidate or committee supporting or opposing a candidate for Berkeley municipal election.

8. RECORD-KEEPING REQUIREMENTS

Check each item below to be sure that you have abided by the record-keeping requirements:

- ☐ a) Personal funds have not been commingled with campaign funds.
- ☐ b) Campaign checking accounts are located in Alameda County.
- ☐ c) Complete and accurate records of all campaign receipts and expenditures are available on request, including miscellaneous receipts of \$25 or more (e.g., interest from savings) and miscellaneous documents (e.g., loan agreements, designations of campaign contributions, etc).
- ☐ d) Municipal campaign monies are kept separate from non-municipal campaign monies.
- ☐ e) Records of contributions of \$25 or more contain:
- ☐ Date and amount of contribution
- ☐ Type of contribution (i.e., monetary, in-kind contribution, etc.)
- ☐ Name and address of contributor; occupation of contributor
- ☐ f) Records of contributions of \$50 or more contain:
- ☐ Date and amount of contribution
- ☐ Type of contribution (i.e., monetary, in-kind, etc.)
- ☐ Name, address and occupation of contributor
- ☐ Name of contributor's employer.

☐ g) Records of expenditures of \$25 or more include:

☐ Date and amount of payment

☐ Name of payee

☐ Description of item or service procured

☐ h) Records of expenditures of \$50 or more include:

☐ Date and amount of payment

☐ Name of payee

☐ Description of item or service procured

☐ Address of person or vendor providing goods or services if different from payee

9. LATE CONTRIBUTIONS

☐ Late contributions of \$100 - \$999 were reported within 48 hours of receipt or donation.

☐ Late contributions of \$1,000 or more were reported within 24 hours of receipt of donation.

☐ Late contributions were again disclosed on the next campaign statement.

10. MASS MAILINGS

☐ A copy of every mass mailing was either hand delivered to the City Clerk within one day of the day the mailing was deposited in the U.S. Mail or a copy was addressed to the Commission and deposited in the U.S. Mail on the same day the first pieces were deposited in the U.S. Mail.

11. CHANGES IN FILER'S ADDRESS, TELEPHONE NUMBER OR TREASURER

☐ Any changes in the candidate's, officeholder's or committee's address, telephone number or treasurer were reported within 10 days of such a change.

APPENDIX A

DIFFERENCES BETWEEN BERKELEY AND STATE CAMPAIGN DISCLOSURE LAWS

CITY OF BERKELEY	STATE OF CALIFORNIA
1. CASH CONTRIBUTIONS: All monetary contributions of <u>\$50</u> or more must be made by written instrument.	All monetary contributions of <u>\$100</u> or more must be made by written instrument.
2. CONTRIBUTION LIMITATION: <u>\$250</u> per candidate contribution limitation.	No such limitation.
3. LATE CONTRIBUTIONS: A contribution of <u>\$100 - \$999</u> received before the election but after the last closing date before the election must be reported within 48 hours.	A late contribution of <u>\$1000 or more</u> received before the election but after the last closing date before the election must be reported within 24 hours.
4. DISCLOSURE OF CONTRIBUTIONS: Contributions of <u>\$50 or more</u> must be disclosed and itemized (contributor's name, address, occupation, employer, amount and date of contribution.	Contributions of <u>\$100 or more</u> must be disclosed and itemized.
5. EXEMPTION FROM ITEMIZATION OF CONTRIBUTIONS OF \$50 OR LESS: Each candidate and committee must <u>disclose but need not itemize</u> contributions of less than <u>\$50 up to \$1500</u> during the 2-year election cycle. Once a total of \$1500 of contributions of \$50 or less has been reached, all contributions, regardless of amount, must be disclosed and itemized.	No such threshold.

(continued)

CITY OF BERKELEY	STATE OF CALIFORNIA
<p>6. DISCLOSURE OF EXPENDITURES:</p> <p>Expenditures of <u>\$50</u> or more must be disclosed and itemized, description of goods/services, name and address of person providing goods/services, date of purchase, cost).</p>	<p>Expenditures of <u>\$100</u> or more must be disclosed and itemized.</p>
<p>7. ANONYMOUS CONTRIBUTIONS:</p> <p>Anonymous contributions of <u>\$50</u> or more per person in a calendar year are prohibited.</p>	<p>Anonymous contributions of <u>\$100</u> or more per person in a calendar year are prohibited.</p>
<p>8. PROHIBITION ON CONTRIBUTIONS FROM CORPORATIONS AND LABOR UNIONS:</p> <p>Contributions to candidates by corporations and labor unions are prohibited.</p>	<p>No such prohibition.</p>
<p>9. DEFINITION OF A COMMITTEE:</p> <p>A committee is defined as any person receiving or expending <u>\$250</u> or more in a calendar year.</p>	<p>A committee is defined as any person receiving or expending <u>\$500</u> or more in a calendar year.</p>
<p>10. STATEMENT OF ORGANIZATION:</p> <p>Berkeley has its own Statement of Organization which must be filed <u>within 10 days</u> of committee formation.</p>	<p>State uses a <u>different</u> "Statement of Organization" <u>form</u>.</p>
<p>11. ALAMEDA COUNTY BANK ACCOUNT:</p> <p>Candidates and committees must locate their bank accounts in <u>Alameda County</u>. Several enforcement authorities are given full access to the records of such accounts. <u>All expenditures must be made exclusively from such an account and only after receipt of a bill or voucher from vendor or provider of goods/services.</u></p>	<p>No such provision.</p>

<u>CITY OF BERKELEY</u>	<u>STATE OF CALIFORNIA</u>
<p>12. AUDITS:</p> <p><u>FCPC has the right to audit a candidate or committee.</u></p>	<p><u>Franchise Tax Board</u> has the right to audit a candidate or a committee.</p>
<p>13. PUBLICATION OF CAMPAIGN CONTRIBUTIONS:</p> <p><u>The City Clerk must publish a list of contributions over \$50 at least 7 days before an election.</u></p>	<p>No such provision.</p>
<p>14. MASS MAILINGS:</p> <p><u>A copy of every mass mailing must be sent to the FCPC within one day of the mass mailing.</u></p>	<p><u>No such provision</u>, but mass mailings cannot be sent at public expense and must contain information about the sender (name, address).</p>
<p>15. PENALTIES:</p> <p><u>A candidate or officeholder convicted of a violation of the ordinance will have her or his candidacy or office terminated immediately.</u></p>	<p><u>Criminal or civil penalties provided.</u></p>
<p>16. PRESS RELEASE POLICY:</p> <p>Policy of automatic and regular press release of the <u>names of candidates, officeholders and committees who have failed to file 30 days after the filing deadline.</u></p>	<p>No such policy.</p>
<p>17. IN KIND CONTRIBUTIONS:</p> <p>The term contribution does not include a gift of the use of personal or real property, or food or beverages the value of which is <u>no more than \$50.</u></p>	<p>The term contribution does not include any meeting or fundraising events held in the donor's home if the costs are <u>\$500 or less.</u></p>
<p>18. RETENTION OF RECORDS:</p> <p>Filers must keep records for <u>60 days</u> from the date a final report in connection with an election is filed.</p>	<p>Filers must keep records for a minimum of <u>four years.</u></p>

APPENDIX B

RESOURCE DIRECTORY

I. LOCAL

1. FAIR CAMPAIGN PRACTICES COMMISSION (FCPC)
2180 Milvia Street
Berkeley, CA 94704
(415) 644-6380
2. CITY CLERK
2180 Milvia Street, First Floor
Berkeley, CA 94704
(415) 644-6480

II. STATE

1. FAIR POLITICAL PRACTICES COMMISSION (FPPC)
428 J Street, Seventh Floor
Sacramento, CA 95814
(916) 322-5662
2. CALIFORNIA SECRETARY OF STATE
1230 J Street
Sacramento, CA 95814
 - a) ELECTIONS DIVISION - (916) 445-1820
 - b) CORPORATION STATUS - (916) 445-2900
 - c) POLITICAL REFORM DIVISION - (916) 322-4880
State Filing Number and Campaign Statements
3. FRANCHISE TAX BOARD
9750 Business Park Drive, Suite 214
Sacramento, CA 95827
POLITICAL REFORM DIVISION - (916) 369-3052

III. FEDERAL

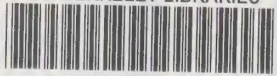
1. INTERNAL REVENUE SERVICE
1221 Broadway
Oakland, CA 94612
GENERAL ASSISTANCE - (415) 849-1040
FEDERAL FORMS ONLY - (415) 451-1350
2. FEDERAL ELECTION COMMISSION
999 E Street - Northwest
Washington D.C. 20463
(800) 424-9530

Subject	Page
<u>Amended, Statement of Organization</u>	25
<u>Amendment</u> - to Campaign Disclosure Statement	23,26
<u>Anonymous, contribution</u>	13
<u>Annotation of State forms to conform to Berkeley Law</u>	3,22,26
<u>Assistance</u> with meeting campaign filing obligations	1-2,3,28
-See Appendix B, Resource Directory	
<u>Audits of candidate's officeholders or committee's records</u>	15,18
<u>Ballot Measure Committee</u> [See Committees]	
<u>Bank Accounts</u> [See Checking Accounts]	
<u>Berkeley Election Reform Act (BERA)</u> [covered throughout]	1,2
<u>Bills, unpaid campaign bill</u>	23,31-32
<u>Checking Account, (Campaign)</u>	12,16
<u>Candidate</u>	
-definition	4
-forms	22-25
-must file	4,33
<u>Checklist, of requirements</u>	
-Essential Checklist for Compliance With BERA, Chapter XI	33-36
<u>City Clerk, filing officer, provider of forms</u>	2,3,14,22, 26,28,31,33
<u>Commission</u> [See Fair Campaign Practices Commission (Berkeley)]	
<u>Committees</u>	
-contribution limitations	19-21
-definition	4,5
-definition of specific types:	
Ballot Measure Committee	5,10
Contributions to Committee	19
Controlled Single-Candidate Committee	5
Expenditure Committee	6
Forms	25,27
Independent Committee	6
Organization	6
Recipient Committee	5,6
Treasurer of,	6,30
<u>Contribution</u>	
-anonymous	13
-by written instrument	13
-definition	12
-distinguished from expenditure	16
-indirect	19-21
-in kind	12,32
-itemized	13,30,34
-joint (husband and wife)	29
-late [See Late Contributions]	
-limitations	1,5,12-15, 19-21,35
-non-monetary	12
-prohibitions	1,5,12-15, 19-21,35
-record-keeping requirements	12-15,35-36
-reporting requirements	12-15
-separation of funds from prohibited source	34
-to Berkeley candidates, and non-Berkeley candidates or measures	12-14
-to Slate Committees	15,19-20

Subject	Page
<u>Designation Requirement</u>	13-14
<u>Donor; Donations</u>	
-by written instrument [designation requirement]	13-14
-Donor's Statement, form, designating use of funds	14
-In Kind donations	12
<u>Expenditure</u>	
-allocation and categorization	16,17
-committee	6
-definition	16
-independent	6
-itemizing	16,30,34
-record-keeping requirements	18,36
-reporting requirements	16-18,34-35
-SEE ALSO: Fundraiser	
<u>Enforcement [See also Penalties]</u>	1,7,11
<u>Fair Campaign Practices Commission (FCPC - City of Berkeley)</u> .	1,18,28
<u>FCPC Regulations</u>	1, covered throughout
<u>Filing Officer [See City Clerk]</u>	
<u>Filing</u>	
-deadlines	8-10,30
-forms	22-27
-penalties, fines	7,11
-periods	8-10,31,33,34
-schedule	7-10
<u>Forms</u>	
-choosing	3,22-26,33
-completing	26-27,33-36
-filing [See City Clerk]	
<u>Fundraiser</u>	12,32
<u>Independent Committee</u>	6
<u>In Kind, contribution</u>	12,32
<u>Interpretation of Campaign Disclosure Law</u>	28
<u>Itemizing</u>	
-contributions	13,30,34
-expenditures	16,30,34-35
<u>Joint Filing, candidates and their controlled committees</u>	5,22,25
<u>Labor Unions [See Contribution Prohibitions]</u>	
<u>Late Contributions</u>	7-10,15,24,26,36
<u>Late Filing Penalties</u>	
-Fine	7,11
-Press Release	11
<u>Limitations, contribution</u>	1,5,19-21,28,29,35
<u>Loans</u>	12,16,23,28,31,32
<u>Name, ID requirement for committees</u>	25
<u>Mailings, Mass</u>	31,36
<u>Officeholder</u>	
-must file	4,33
-prohibition on terminating filing obligations	29
<u>Organization, as a Committee</u>	6,25
<u>Organization, Statement of, requirement</u>	5,7
-Berkeley form	7,10,25
-State form	25

<u>Penalties</u> [See Late Filing Penalties]	
<u>Period Covered</u> [See Fixed Filing Schedule]	
<u>Personal Funds</u>	13,28
<u>Pledges</u>	23
<u>Political Reform Act of 1974</u>	1
<u>Post-Election Statement</u> [See also Semi-Annual Statement&Forms]	8-10
<u>Pre-Election Statement</u> [See also Forms]	8-10
<u>Prohibitions</u> [See Contribution Prohibitions]	
<u>Qualification, ballot measure</u>	5,7,10
<u>Recall, election</u>	4,31
<u>Recipient Committee (definition)</u>	5
<u>Recipient Committee Campaign Statement</u>	25-27
<u>Records</u>	
-Record-Keeping Requirements: Contributions	12-15,35
-Record-Keeping Requirements: Expenditures	16-18,36
-Retention of records required	15,18
<u>Regulations, FCPC</u>	1,2, covered throughout
<u>Reporting</u>	
-campaign disclosure statements	22-27
-changes in candidate's/committee's address, treasure, etc.	25
-[See also Contributions]	
-[See also Expenditures]	
-[See also Mailings, mass]	
-[See also Semi-Annual Statement and Forms]	
-[See also Verification]	
-SEE: Chapter XI, "Essential Checklist for Compliance.." ..	33-36
<u>Resource Directory</u>	40
<u>Schedule</u> [See Filing Schedule]	
<u>Schedules, A - G, for use with Forms 420, 430, 490</u>	22-23,29,31
<u>Semi-Annual Statement, required</u>	8-10
<u>Semi-Annual Report of No Activity</u>	25
<u>Signatures</u> [See: Verification]	
<u>Special Elections</u>	7,10,31
<u>Special Problems</u>	31
<u>State Filing Obligations</u>	2,6,37-39
-Differences between Berkeley and State Disclosure Laws ...	2,6,37-39
-Filing Manual	2,3,5
-Resource Directory	40
<u>State Forms</u>	
-Annotated to conform to Berkeley Law	3,22
-Statement of Organization	25
<u>Statement of Organization, Berkeley form</u>	7,10,25
<u>Statement of Organization, Amended</u>	25
<u>Statement of Termination</u>	7,11,23,26,29
<u>Surplus Funds</u>	23,26,28
<u>Termination, Statement of</u> [See Statement of Termination]	
<u>Transfers, of funds between committees</u>	16
<u>Treasurer</u>	
-candidate as	12,30
-change in	25,36
-duty to abide by prohibitions and limitations	19-21
-keeper of records	15,18
-required	12
<u>Unpaid bills</u>	31-32
<u>Verification, of campaign disclosure statements</u>	5,14,27,30
<u>Volunteer, labor or services</u>	
-freedom from reporting requirements	12,30
-[See also Fundraisers]	

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